

Before the
Federal Communications Commission
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of:

Computer III Remand
Proceedings: Bell Operating
Company Safeguards and
Tier 1 Local Exchange Company
Safeguards;

CC Docket No. 90-623

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Computer III Further Remand
Proceedings: Bell Operating
Company Provision of
Enhanced Services;

CC Docket No. 95-20

Implementation of the Non-Accounting
Safeguards of Section 271 and 272 of the
Communications Act of 1934, as amended;

CC Docket No. 96-149

and

Implementation of the
Telecommunications Act of 1996:
Telemessaging,
Electronic Publishing, and
Alarm Monitoring Services

CC Docket No. 96-152

**MOTION TO WITHDRAW PETITION FOR RECONSIDERATION
IN COMPUTER III REMAND PROCEEDINGS
AND TO INCORPORATE THE SAME
IN COMPUTER III FURTHER REMAND PROCEEDINGS
AND OTHER PROCEEDINGS**

ATSI respectfully requests the Commission to grant this motion to withdraw its Petition for Reconsideration in the *Computer III Remand Proceedings* and to incorporate the same Petition in the above referenced proceedings relating to the *Computer III Further Remand*

Proceedings, the *Non-Accounting Safeguards Proceeding*, and the *Telemessaging Safeguards Proceeding*.¹

On March 8, 1991, ATSI filed Comments in the *Computer III Remand Proceedings* and provided examples detailing competitive disadvantages experienced by its membership in the provision of telemessaging services.²

On March 6, 1992, ATSI filed its Petition for Reconsideration of the *BOC Safeguards Order* in the *Computer III Remand Proceedings* because the Commission's order failed to address the competitive disadvantages identified in the ATSI Comments. In its Petition, ATSI urged the Commission to modify the *BOC Safeguards Order* by (1) prohibiting joint marketing of basic and enhanced services, (2) extending the prior authorization requirements for CPNI to all users, regardless of size, and (3) ensuring that users who restrict access to their CPNI continue to receive non-discriminatory treatment and an adequate level of service. The Commission has taken no direct action on the ATSI Petition to date, and members of ATSI continue to experience the disadvantages identified in the ATSI Comments.

On February 21, 1995, the Commission responded to the Ninth Circuit's California v. FCC³ decision by adopting a *Notice of Proposed Rulemaking* intended to address the effectiveness of the various nonstructural safeguards that govern BOC provision of enhanced

¹ See, Petition for Reconsideration of the Association of Telemessaging Services International, CC Docket No. 90-623, filed March 6, 1992 ("ATSI Petition"). See also, *Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards*, 6 FCC Rcd 7571 (1991) ("*BOC Safeguards Order*").

² See, Comments of Association of Telemessaging Services International, CC Docket No. 90-623, filed March 8, 1991 ("ATSI Comments").

³ 39 F.3d 919 (9th Cir. 1994).

services.⁴ ATSI filed comments in these *Computer III Further Remand Proceedings*.⁵

The Commission has more recently undertaken a series of proceedings to implement the Telecommunications Act of 1996. ATSI has filed comments in the *Non-Accounting Safeguards Proceeding*⁶ and the *Telemessaging Safeguards Proceedings*.⁷

The Commission has asked ATSI to evaluate the current status of its Petition for Reconsideration in the *Computer III Remand Proceedings*. Because the issues raised in the ATSI Petition have not been resolved, and because these issues and the supporting examples of competitive disadvantages detailed in the ATSI Comments have applicability in the *Computer III Further Remand Proceedings*, the *Non-Accounting Safeguards Proceeding* and the *Telemessaging Safeguards Proceeding*, it is appropriate for the Commission to incorporate the ATSI Petition in the above referenced proceedings.

⁴ See, *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, Notice of Proposed Rulemaking*, CC Docket No. 95-20, FCC 95-48 (released February 21, 1995) ("*Computer III Further Remand Proceedings*").

⁵ See, Comments of the Association of Telemessaging Services International, CC Docket No. 95-20, filed April 7, 1995. See also, Comments of the Association of Telemessaging Services International, CC Docket No. 95-20, filed May 19, 1996.

⁶ *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, Notice of Proposed Rulemaking*, CC Docket No. 96-149, FCC 96-308 (released July 18, 1996) ("*Non-Accounting Safeguards Proceeding*"). See, Comments of the Association of Telemessaging Services International, CC Docket No. 96-149, filed August 16, 1996.

⁷ *Implementation of the Telecommunications Act of 1996: Telemessaging, Electronic Publishing, and Alarm Monitoring Services, Notice of Proposed Rulemaking*, CC Docket No. 96-152, FCC 96-310 (released July 18, 1996) ("*Telemessaging Safeguards Proceeding*"). See, Comments of the Association of Telemessaging Services International, CC Docket No. 96-152, filed September 4, 1996.

Grant of this motion will allow the Commission to respond to these outstanding issues in the appropriate proceedings.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of December 1996, copies of the foregoing **MOTION TO WITHDRAW PETITION FOR RECONSIDERATION IN COMPUTER III REMAND PROCEEDINGS AND TO INCORPORATE THE SAME IN COMPUTER III FURTHER REMAND PROCEEDINGS AND OTHER PROCEEDINGS** were served via first class mail to the parties on the attached service lists for CC Docket Nos. 95-20, 96-149, and 96-152. In addition, copies were delivered by messenger to the International Transcription Services, Inc., Janice Myles of the Common Carrier Bureau, and Melissa Littell of the Common Carrier Bureau's Policy & Program Planning Division.


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